

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Loretta Laura Erby,

Plaintiff,

v.

Webster University, Betsy Schmutz, Beth Russell,
David Dunlap, and Sam Cooper

Defendants.

C/A No.: 3:13-518-JFA-SVH

ORDER

Plaintiff Loretta Laura Erby brings the above-captioned case against her former employer, Webster University, and Webster University employees Betsy Schmutz, Beth Russell, David Dunlap, and Sam Cooper. In her complaint, Plaintiff asserts claims pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.* (“Title VII”) and the Family Medical Leave Act (“FMLA”), as well as state law claims of defamation and intentional infliction of emotional distress. This matter is before the court on Defendants’ partial¹ motion to dismiss under FED. R. CIV. P. 12(b)(6).

The Magistrate Judge assigned to this action² has prepared a Report and Recommendation wherein she recommends that the court grant Defendant’s partial motion to dismiss. The Magistrate Judge further recommends that the dismissal of those claims be without prejudice and with leave to file an amended complaint within 15 days of this order. The Report

¹ Defendants have not moved to dismiss the Title VII claims of hostile work environment and retaliation.

² The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

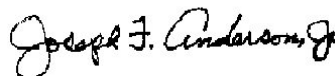
and Recommendation sets forth the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

Plaintiff filed a “response” to the Report and Recommendation on September 26, 2013. Instead of objecting to the Report and Recommendation, Plaintiff simply “refrain[ed] from concurring with the Magistrate Judge” substantively, and agreed with the recommended course of action only. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

After carefully reviewing the applicable laws, the record in this case, and the Report and Recommendation, this court finds the Magistrate Judge’s recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The Report is incorporated herein by reference in its entirety. Accordingly, Defendants’ partial motion to dismiss is granted *without* prejudice and with leave to file an amended complaint within 15 days of this order. This case is, therefore, remanded to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

October 1, 2013
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge